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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,595	12/31/2001	Andrew F. Glew	42390.P13735	2224

7590                      08/16/2005  
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EXAMINER

FIELDS, COURTNEY D

ART UNIT	PAPER NUMBER
2137	

2137

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No. 10/039,595	Applicant(s) GLEW ET AL.	
Examiner Courtney D. Fields	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 31 December 2001.
- 2a)  This action is FINAL.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-20 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10 October 2002, 12 November 2002, 19 November 2002, 21 November 2002
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

*RD*

### DETAILED ACTION

1. Claims 1-20 are pending.

#### ***Information Disclosure Statement***

2. The Information Disclosure Statements respectfully submitted on 10 October 2002, 12 November 2002, 19 November 2002, 27 November 2002, 25 April 2003, 29 April 2003, 20 August 2003, 22 August 2003, 16 December 2003, 02 April 2004, 06 April 2004, and 02 July 2004 have been considered by the Examiner.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 11-17 and 19-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 11-17 and 19-20 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 12, lines 5-11 and page 31, lines 16-21, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., disc) and intangible embodiments (e.g., signal transmissions such as optical, electrical, or air wave). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Davis et al. (US Patent No. 6,401,208).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1 and 11, Davis et al. discloses a machine readable medium and code module comprising: code to be executed by a computing device, and a signature that attests to the authenticity of the code, the signature encrypted such that the computing device is capable of decrypting the signature using a key embedded in a chipset of the computing device (See Column 3, lines 6-40)

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Regarding claims 2 and 12, Davis et al. discloses the claimed limitation wherein the signature further attests to the authenticity of the data (See Column 2, lines 64-66)

Regarding claim 3, Davis et al. discloses the claimed limitation wherein the signature comprises a digest value computed from the code and the data (See Column 2, lines 56-61)

Regarding claims 4 and 13, Davis et al. discloses the claimed limitation wherein the digest value is computed based upon a SHA-1 hash of the code and the data (See Column 3, lines 37-40)

Regarding claim 5, Davis et al. discloses the claimed limitation wherein the signature comprises a hash of the code and the data (See Column 2, lines 53-67, Column 6, line 1)

Regarding claims 6 and 14, Davis et al. discloses the claimed limitation wherein a field that identifies an execution point from which the computing device executes the code (See Column 4, lines 41-59)

Regarding claims 7 and 15, Davis et al. discloses the claimed limitation wherein a marker that specifies the end of the code module (See Column 6, lines 20-30)

Regarding claims 8 and 16, Davis et al. discloses the claimed limitation wherein one or more fields that specify an encryption algorithm used to encrypt the signature and that specify an algorithm used to compute the digest value (See Column 2, lines 53-56)

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Regarding claims 9 and 17, Davis et al. discloses the claimed limitation wherein a field that specifies an execution point of a post-code module from which the computing device initiates execution of the post-code module after executing the code module (See Column 5, lines 4-31)

Regarding claims 10 and 18, Davis et al. discloses the claimed limitation wherein the code comprises a terminate instruction that specifies an execution point of a post code module and that in response to being executed results in the computing device terminating execution of the code module and initiating execution of the post-code module from the execution point (See Column 5, lines 32-67, Column 6, lines 1-13)

Regarding claim 19, Davis et al. discloses a machine readable medium comprising: data pages comprising data, code pages comprising code to be executed by a computing device and a value that fingerprints the data pages and the code pages, the value encrypted such that the computing device is capable of decrypting the value using an asymmetric key embedded in a hardware component of the computing device (See Column 5, lines 66-67, Column 6, lines 1-13)

Regarding claim 20, Davis et al. discloses the claimed limitation wherein the value is encrypted via the RSA encryption algorithm and an asymmetric key paired with the asymmetric key of the hardware component and the value comprises a SHA-1 hash of the data pages and the code pages (See Column 4, lines 29-40)

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney D. Fields whose telephone number is 571-272-3871. The examiner can normally be reached on Mon - Thurs. 6:00 - 4:00 pm; off every Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cdf  
August 1, 2005

  
**EMMANUEL L. MOISE**  
**SUPERVISORY PATENT EXAMINER**